

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

BLACKWELL PUBLISHING, INC.,
ELSEVIER, INC., ELSEVIER B.V.,
WALTER de GRUYTER GmbH & CO. KG,
MASSACHUSETTS MEDICAL SOCIETY,
WILEY-LISS, INC., and
WILEY PERIODICALS, INC.,

Plaintiffs,

V.

FEDERAL STATE OF
NORDRHEIN-WESTFALEN, GERMANY,
d/b/a ZBMED,

Defendant.

CIVIL ACT.NO. 04-10050-NG-MB

JOINT MOTION TO AMEND SCHEDULING ORDER
and TO CONTINUE STATUS CONFERENCE

The parties jointly move to continue the Status conference scheduled for Tuesday May 25, 2005 at 3:00pm to June 23 or 24, 2005 at 3:00pm or a time thereafter that is convenient to the Court and to amend the deadlines set out in the Scheduling Order entered by this Court at the Status Conference on November 23, 2004, as follows:

- August 23, 2005: All motions pursuant to Fed. R. Civ. P. 12, 15, 19, and 20 filed.
- November 29, 2005: All discovery on copies delivered into the United States completed.
- March 3, 2006: All dispositive motions pursuant to Fed. R. Civ. P. 56, with respect to copies delivered into the United States, filed.

As grounds for this motion, the parties state:

1. The parties have essentially concluded their settlement agreement after extensive negotiations among counsel in Germany, the United Kingdom and the United States. Only two elements remain: 1) The draft settlement agreement that the parties are now putting into final form is in a format for the related proceeding in the United Kingdom and a revised version needs to be prepared to meet the procedural requirements of the U.S. proceeding (the terms are essentially the same; except for the settlement amounts); and 2) the U.S. parties have a remaining gap in the settlement amount of about \$8,000 – an amount which both sides agree is not enough to hamper their concluding a settlement which involves broader and more substantial issues about the way in which document deliveries are managed in the future. One of the agreed points of the settlement is that the U.K. and U.S., actions will be settled together. Counsel for both sides agree that they should be able to convert the U.K. settlement draft to U.S. form and to close their remaining gap on the settlement amount in time for the next status conference. Both agree that it would be the best and most efficient use of the Court's time and counsels' time to continue to focus on their productive settlement efforts.

2. Counsel, William S. Strong, for the plaintiffs, and David S. Korzenik, for the defendant, have both conferred with Ms. Dianalynn Saccoccio of Chambers to advise the Court of the parties' progress toward settlement. The parties are available for a status conference on June 23 or on other days that week or the following week as the Court prefers. The parties have requested a thirty (approx.) day extension of time since they want to maintain the tempo of their settlement efforts in both the U.S. and the U.K. litigations.

3. Accordingly, the parties jointly request that their status conference of May 25, 2005 be adjourned to June 23, 2005 at 3:00pm (or later as is preferable for the Court) and that the deadlines set forth in the Scheduling Order be extended each as noted below. In the alternative, if the Court prefers, the counsel would be pleased to report by telephone conference on the status of their settlement activities.

4. In their Joint Statement Pursuant to Local Rule 16.1(D), which was filed with the Court on July 17, 2004, the parties agreed to discovery deadlines and proposed deadlines for the filing of motions.

5. After a Status Conference on July 23, 2004, the Court (Bowler, M.J.) adopted the schedule proposed by the parties. After a Status Conference on November 23, 2004 the deadlines were extended.

6. In light of the clear progress made in the settlement, the parties now seek to extend, by approximately one month, the deadlines set out in that schedule.


7. Allowing the extended time periods set out in this motion will not prejudice any party or the Court, and will permit the parties to concentrate their energies on concluding the settlement.

WHEREFORE, the undersigned parties respectfully request that the deadline for filing of motions pursuant to Fed. R. Civ. P. 12, 15, 19, and 20 be extended from July 21, 2005 to August 23, 2005; that the deadline for discovery on copies delivered into the United States be extended from October 28, 2005 to November 29, 2005; and that the deadline for filing of motions for summary judgment pursuant to Fed. R. Civ. P. 56, as to copies delivered into the United States, be extended from February 3, 2006 to March 3, 2006.

Respectfully submitted,


BLACKWELL PUBLISHING, INC.,
ELSEVIER, INC.,
ELSEVIER SCIENCE B.V.,
WALTER de GRUYTER GmbH & CO. KG,
WILEY-LISS, INC., and
WILEY PERIODICALS, INC.,
Plaintiffs

By their attorneys,


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FEDERAL STATE OF NORDRHEIN-
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Dated: May 24, 2005